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15 Michael Lima

16 UNITED STATES DISTRICT COURT
17 CENTRAL DISTRICT OF CALIFORNIA
18 WESTERN DIVISION

19 Michael Lima,

20 Plaintiff,

21 vs.

22 Admin Recovery, LLC.,

23 Defendant.

Case No.:

COMPLAINT FOR DAMAGES

FOR VIOLATIONS OF:

- 1. THE FAIR DEBT COLLECTION PRACTICES ACT; AND**
- 2. THE ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT**

JURY TRIAL DEMANDED

1 Plaintiff, Michael Lima (hereafter “Plaintiff”), by undersigned counsel, brings
2 the following complaint against Admin Recovery LLC (hereafter “Defendant”) and
3 alleges as follows:
4

5 **JURISDICTION**

6 1. This action arises out of Defendant’s repeated violations of the Fair Debt
7 Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (“FDCPA”), and repeated
8 violations of the Rosenthal Fair Debt Collection Practices Act, Cal. Civ. Code § 1788,
9 *et seq.* (“Rosenthal Act”).
10

11 2. Jurisdiction of this Court arises under 15 U.S.C. § 1692k(d), Cal. Civ.
12 Code 1788.30(f), 28 U.S.C. § 1331 and 28 U.S.C. § 1367.
13

14 3. Venue is proper before this Court pursuant to 28 U.S.C. § 1391(b), where
15 the acts and transactions giving rise to Plaintiff’s action occurred in this district and/or
16 where Defendant transacts business in this district.
17

18 **PARTIES**

19 4. Plaintiff is an adult individual residing in Norwalk, California, and is a
20 “person” as defined by 47 U.S.C. § 153(39) and Cal Civ. Code § 1788.2(g).
21

22 5. Plaintiff is a “consumer” as defined by 15 U.S.C. § 1692a(3), and is a
23 “debtor” as defined by Cal. Civ. Code § 1788.2(h).
24

25 6. Defendant is a business entity located in Williamsville, New York, and is
26 a “person” as the term is defined by 47 U.S.C. § 153(39) and Cal Civ. Code §
27 1788.2(g).
28

1 7. Defendant uses instrumentalities of interstate commerce or the mails in a
2 business the principle purpose of which is the collection of debts and/or regularly
3 collects or attempts to collect debts owed or asserted to be owed to another, and is a
4 “debt collector” as defined by 15 U.S.C. § 1692a(6).
5

6 8. Defendant, in the ordinary course of business, regularly, on behalf of
7 itself or others, engages in the collection of consumer debts, and is a “debt collector”
8 as defined by Cal. Civ. Code § 1788.2(c).
9

10
11 **ALLEGATIONS APPLICABLE TO ALL COUNTS**
12

13 9. Plaintiff is a natural person allegedly obligated to pay a debt asserted to
14 be owed to a creditor other than Defendant.

15 10. Plaintiff’s alleged obligation arises from a transaction in which property,
16 services or money was acquired on credit primarily for personal, family or household
17 purposes, is a “debt” as defined by 15 U.S.C. § 1692a(5), and is a “consumer debt” as
18 defined by Cal. Civ. Code § 1788.2(f).
19

20 11. At all times mentioned herein where Defendant communicated with any
21 person via telephone, such communication was done via Defendant’s agent,
22 representative or employee.
23

24 12. Within the last year, Defendant called Plaintiff in an attempt to collect a
25 debt.
26
27
28

1 13. Defendant's calls to Plaintiff were unreasonably excessive, calling on a
2 daily basis and often calling multiple times per day.

3
4 14. On or about August 13, 2015, Plaintiff instructed Defendant to place calls
5 to him only after 1:00PM.

6
7 15. Plaintiff explained to Defendant that he was unable to answer the phone
8 prior to 1:00PM due to his work schedule.

9
10 16. Despite Plaintiff's explanation and request, Defendant continued calling
11 Plaintiff before 1:00PM.

12 17. Defendant's actions caused Plaintiff to suffer a significant amount of
13 frustration and annoyance, and caused Plaintiff to suffer significant stress at his
14 workplace.
15

16
17 **COUNT I**

18 **VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT, 15**
19 **U.S.C. § 1692, et seq.**

20 18. Plaintiff incorporates by reference all of the above paragraphs of this
21 complaint as though fully stated herein.
22

23 19. The FDCPA was passed in order to protect consumers from the use of
24 abusive, deceptive and unfair debt collection practices and in order to eliminate such
25 practices.
26

27 20. Defendant attempted to collect a debt from Plaintiff and engaged in
28 "communications" as defined by 15 U.S.C. § 1692a(2).

1 21. Defendant communicated with Plaintiff at a time or place known to be
2 inconvenient to the Plaintiff, in violation of 15 U.S.C. § 1692c(a)(1).
3

4 22. Defendant engaged in conduct, the natural consequence of which was to
5 harass, oppress, or abuse Plaintiff, in connection with the collection of a debt, in
6 violation of 15 U.S.C. § 1692d.
7

8 23. Defendant caused Plaintiff's phone to ring or engaged Plaintiff in
9 telephone conversations repeatedly or continuously, with the intent to annoy, abuse
10 and harass Plaintiff, in violation of 15 U.S.C. § 1692d(5).
11

12 24. The foregoing acts and/or omissions of Defendant constitute numerous
13 and multiple violations of the FDCPA, including every one of the above-cited
14 provisions.
15

16 25. Plaintiff was harmed and is entitled to damages as a result of Defendant's
17 violations.
18

19
20 **COUNT II**

21 **VIOLATIONS OF THE ROSENTHAL FAIR DEBT COLLECTION**
22 **PRACTICES ACT, Cal. Civ. Code § 1788, et seq.**

23 26. Plaintiff incorporates by reference all of the above paragraphs of this
24 complaint as though fully stated herein.

25 27. The Rosenthal Act was passed to prohibit debt collectors from engaging
26 in unfair and deceptive acts and practices in the collection of consumer debts.
27
28

1 28. Defendant did not comply with the provisions of 15 U.S.C. § 1692, *et*
2 *seq.*, in violation of Cal. Civ. Code § 1788.17.

3
4 29. Defendant caused Plaintiff's telephone to ring repeatedly or continuously
5 to annoy Plaintiff, in violation of Cal. Civ. Code § 1788.11(d).

6
7 30. Defendant communicated with Plaintiff with such frequency as to be
8 unreasonable, constituting harassment, in violation of Cal. Civ. Code § 1788.11(e).

9 31. Plaintiff was harmed and is entitled to damages as a result of Defendant's
10 violations.
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13 **PRAYER FOR RELIEF**

14 WHEREFORE, Plaintiff prays for judgment against Defendant for:

15 A. Actual damages pursuant to 15 U.S.C. § 1692k(a)(1);

16 B. Statutory damages of \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A);

17 C. Actual damages pursuant to Cal. Civ. Code § 1788.30(a);

18 D. Statutory damages of \$1,000.00 for knowingly and willfully committing
19 violations pursuant to Cal. Civ. Code § 1788.30(b);

20 E. Costs of litigation and reasonable attorneys' fees pursuant to 15 U.S.C.
21 § 1692k(a)(3) and Cal. Civ. Code § 1788.30(c);

22 F. Punitive damages; and

23 G. Such other and further relief as may be just and proper.
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28 **TRIAL BY JURY DEMANDED ON ALL COUNTS**

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DATED: March 1, 2016

TRINETTE G. KENT

By: /s/ Trinette G. Kent
Trinette G. Kent, Esq.
Lemberg Law, LLC
Attorney for Plaintiff, Michael Lima